

THE HONORABLE ROBERT S. LASNIK

U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BRIDGETT AMADECK, FELIX N.
HANSEN and ALBERT H. KIRBY,

Plaintiffs,

v.

CAPITAL ONE FINANCIAL CORPORATION
and CAPITAL ONE BANK (USA), N.A.,

Defendants.

NO. 2:12-cv-00244-RSL

**DECLARATION OF DANIEL M.
HUTCHINSON IN SUPPORT OF
PLAINTIFFS' MOTION TO MODIFY
THE SCHEDULING ORDER AND
FOR LEAVE TO AMEND
COMPLAINT**

I, Daniel M. Hutchinson, declare as follows:

1. I am a partner at the law firm of Lief Cabraser Heimann & Bernstein, LLP, and co-lead counsel for Ms. Tiffany Alarcon, who, like the Plaintiffs in the above-captioned matter, brought class claims under the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* ("TCPA") against Capital One Bank (USA), N.A. ("Capital One"). I am an attorney licensed to practice in the U.S. Court of Appeals for the Fourth and Ninth Circuits, and the Central, Northern, and Southern Districts of California, and am a member in good standing of the bar of the State of California. I make this declaration based on personal knowledge, and I am competent to testify regarding the following facts.

DECLARATION OF DANIEL M. HUTCHINSON IN
SUPPORT OF PLAINTIFFS' MOTION TO MODIFY THE
SCHEDULING ORDER AND FOR LEAVE TO AMEND
COMPLAINT - 1
CASE No. 2:12-cv-00244-RSL

1 2. On August 7, 2012, Ms. Alarcon filed a class action complaint in the Northern
2 District of California styled *Alarcon v. Capital One Bank (USA), N.A., et al.*, Case No. 3:12-cv-
3 04145-JSC (N.D. Cal). In that complaint, Ms. Alarcon alleged, *inter alia*, that Capital One
4 made calls to her cellular telephone via an “automatic telephone dialing system,” as defined by
5 47 U.S.C. § 227(a)(1), and/or by using “an artificial or prerecorded voice” as described in 47
6 U.S.C. § 227(b)(1)(A), without her prior express consent within the meaning of the TCPA.

7 3. Ms. Alarcon voluntarily dismissed her case in the Northern District of California
8 without prejudice so that she could pursue her claims against Capital One as a class
9 representative in this action in the Western District of Washington.

10 I declare under penalty of perjury under the laws of the United States of America that
11 the foregoing is true and correct and that this declaration was executed on this 11th day of
12 October, 2012.

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14 By:  _____

15 Daniel M. Hutchinson
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CERTIFICATE OF SERVICE

I, Beth E. Terrell, hereby certify that on October 11, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

John B. Hayes, WSBA #21009
Email: jhayes@forsberg-umlauf.com
Paul S. Smith, WSBA #28099
Email: psmith@forsberg-umlauf.com
FORSBERG & UMLAUF, P.S.
901 Fifth Avenue, Suite 1400
Seattle, Washington 98164-2050
Telephone: (206) 689-8500
Facsimile: (206) 689-8501

Aaron D. Van Oort, *Admitted Pro Hac Vice*
Email: aaron.vanoort@faegrebd.com
Erin L. Hoffman, *Admitted Pro Hac Vice*
Email: erin.hoffman@faegrebd.com
Eileen M. Hunter
Email: eileen.hunter@faegrebd.com
FAEGRE BAKER DANIELS
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, Minnesota 55402-3901
Telephone: (612) 766-7000
Facsimile: (612) 766-1600

Attorneys for Defendants Capital One Financial Corporation and Capital One Bank (USA), N.A.

1 DATED this 11th day of October, 2012.

2 TERRELL MARSHALL DAUDT & WILLIE PLLC

3
4 By: /s/ Beth E. Terrell, WSBA #26759

5 Beth E. Terrell, WSBA #26759

6 Email: bterrell@tmdwlaw.com

7 936 North 34th Street, Suite 400

8 Seattle, Washington 98103

9 Telephone: (206) 816-6603

10 Facsimile: (206) 350-3528

11 *Attorneys for Plaintiffs*